

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

CHRISTOPHER HARVEY	§	
VS.	§	CIVIL ACTION NO. 1:11-CV-458
M. MARTIN	§	

MEMORANDUM ORDER PARTIALLY ADOPTING THE MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Christopher Harvey, a prisoner confined at the Federal Correctional Institution in Beaumont, Texas, proceeding *pro se*, filed this civil rights action pursuant to *Bivens v. Six Unknown Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

The court ordered that this matter be referred to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has filed a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends dismissing the action as frivolous and for failure to state a claim upon which relief may be granted.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, pleadings and all available evidence. Plaintiff filed a response to the report and recommendation in which he requests to dismiss the action voluntarily. After due consideration, the court is of the opinion that plaintiff's motion to dismiss should be granted, and the case should be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(1).

ORDER

Accordingly, plaintiff's motion to dismiss the case is **GRANTED**. The report of the magistrate judge is partially **ADOPTED** to the extent it recommends dismissing the action. A final judgment will be entered dismissing the action without prejudice in accordance with this Memorandum Order.

SIGNED this the **2** day of **December, 2011**.

A handwritten signature in black ink, appearing to read "Thad Heartfield", is written over a horizontal line.

Thad Heartfield
United States District Judge